

# EPIC Minor Guardianships & Juvenile Guardianships

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# EPIC Minor Guardianships

- Probate Court
  - Limited guardianship (consensual)
  - “Full” or “general” guardianship
    - Temporary (in course of proceedings on full)
- Family Division of Circuit Court may order a full guardianship as a disposition, with or without dismissal, MCL 712A.18(1)(h)

# EPIC Minor Guardian's Authority

- Authority and duties of a parent not deprived of custody (make decisions, authorize medical care, receive money on behalf of ward, etc.)
- Consent to ward's adoption or release ward for adoption

# Juvenile Guardianships

- Distinct from EPIC minor guardianships
- May be an appropriate permanency plan after reunification and adoption ruled out
- Ordered at a permanency planning hearing or a post-termination review hearing, MCL 712A.19a and MCL 712A.19c
- If financial assistance is required, assistance agreement must be signed before court appoints guardian.

# Pre-TPR Juvenile Guardianship

- Required DHS background checks and home study (foster/adopt study)
- Court may appoint guardian if in BIC
- Review hearing and closure of child protection case
- Juvenile guardianship case remains open, with required annual review

# Post-TPR Juvenile Guardianship

- MCI Superintendent must consent to the juvenile guardianship
- Motion alleging consent arbitrarily or capriciously withheld
- Otherwise, same procedure for ordering as pre-TPR

# Juvenile Guardian's Authority & Duties

- Set forth in EPIC, MCL 700.5215
- Limitations on authority in Letters of Authority

# Investigations During Juvenile Guardianships

- Court must appoint DHS or another person when court deems appropriate or upon petition by DHS or an interested person for modification of juvenile guardianship.
- Court must appoint DHS in response to a petition to terminate or revoke a juvenile guardianship.
- Written report with recommendations



# Revocation/Termination of Juvenile Guardianships

- The following may petition to terminate a juvenile guardianship:
  - Juvenile guardian, or
  - Other interested person (MCR 3.979(F)(1)(b)).
    - If guardian was appointed pre-TPR, parents may request termination of guardianship, opportunity to show that they are fit. Court may accept petition. Procedure unclear, but cf. MCL 700.5209(2)(c) (clear and convincing evidence that continuing guardianship would serve best interests of minor).
- Petition may include a request for appointment of successor juvenile guardian.
- The court on its own motion, DHS, or an LGAL may petition to revoke a juvenile guardianship.

# Revocation/Termination of Juvenile Guardianships

- Temporary removal of child from guardian's custody pending revocation or termination hearing:
  - MCR 3.963: court-ordered removal to protect the child's health, safety, or welfare; remaining in the guardian's home is contrary to the child's welfare.
  - MCR 3.974(B): emergency removal hearing within 24 hours or next business day; DRH within 14 days
    - Right to written statement of reasons for removal, appointed counsel, contest removal, compulsory process

# Revocation/Termination of Juvenile Guardianships

- Required hearing on termination of juvenile guardianship or revocation of juvenile guardianship within 28 days
- Preponderance of evidence, best interest of the child
- Contrary to the welfare of child to remain in guardian's home or be placed with parents
- Reasonable efforts to prevent removal

# Post-Termination/Revocation Proceedings

- Termination with successor guardian:
  - Terminate guardian's appointment and proceed with investigation and appointment of new guardian.
- Termination with no successor or revocation:
  - Jurisdiction under MCL 712A.2(b) is reinstated under previous child protection proceeding.
  - Court places child under DHS care and supervision or commits child to MCI.
  - Dispositional hearing under MCR 3.973 or 3.978 within 42 days. Subsequent review hearings under MCR 3.974 (child returned home), 3.975 (child returned to foster care), 3.978 (child returned to foster care post-TPR)
  - Case service plan filed no later than 7 days before initial hearing